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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,069	02/27/2004	Joachim Feld	2003P00335US	9170
7590 08/29/2008 SIEMENS CORPORATION INTELLECTUAL PROPERTY DEPT. 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			EXAMINER WEIDNER, TIMOTHY J	
			ART UNIT 2619	PAPER NUMBER
			MAIL DATE 08/29/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,069

Applicant(s)

FELD ET AL.

Examiner

Timothy J. Weidner

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Claims 1-18 are pending.
2. Claims 1, 6-8, and 10 are currently amended.

Response to Arguments

3. Applicant's arguments, see appeal brief page 7 first paragraph, filed 6/16/08, with respect to rejection of claim 10 under 35 USC 112 have been fully considered and are persuasive. This rejection of claim 10 has been withdrawn.
4. Applicant's arguments, see appeal brief page 10 last paragraph, filed 6/16/08, with respect to the rejection(s) of claim(s) 1, 6, and 10 under 35 USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lee et al. (US 6,611,886 B1).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

8. Claim 1, for example, recites "priorities to data telegrams having a beginning and an end" in line 2, and further recites "a defined receive time of the end of the respective data telegrams" in lines 5-6. It is unclear what "end" is referring to, whether the end of any particular data telegram within the multiple data telegrams, or the end of a stream of multiple data telegrams. Further, the expression "data telegram" is one practically never used that can be more clearly expressed as "packet". Claims 6 and 10 contain similar errors. Claims 2-5 and 7-9 fail to resolve these deficiencies.

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. (US 5960001) in view of Lee et al. (US 6611886 B1).

11. Regarding claims 1, 6, and 10, Shaffer teaches a method, system, and usable portion of a switchable data network for transmitting data in a switchable data network, comprising users having mechanisms for sending, receiving, and/or forwarding data telegrams (figure 2, item 112; column 5, lines 54-67), during cyclical transmission intervals (column 3, lines 25-26; particular periodic rate) wherein the telegrams having a beginning and an end (column 4, lines 5-10; "beginning ... fixed length") and wherein the telegrams are assigned priorities (column 2, lines 11-16; "isochronous ... non-isochronous"), wherein a first usable portion is used during a first phase for sending data telegrams assigned a first priority from a first user to a second user (column 4, lines 59-59; "isochronous transmissions are occurring"), with the first phase having a

pre-defined receive time for receipt of the end of the respective data telegram assigned the first priority at the second user (columns 4-5, lines 59-10; "isochronous transmission on the bus has just terminated ... backoff window will be automatically extended to the end of the isochronous transmission ... backoff period may be added to the end of the isochronous transmission ... reset upon expiration of the isochronous window").

12. However, Shaffer may not explicitly teach sending multiple data telegrams in a phase. Lee, which is in the same field of endeavor, teaches multiple packets sent in a single phase (column 9, lines 33-34) for the purpose of for the purpose of utilizing residual bandwidth (column 4, lines 33-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made send multiple data telegrams in a phase to utilize residual bandwidth.

13. Regarding claims 2 and 7, Shaffer teaches the first users are provided during a second phase after the end of the first phase for exclusively sending data telegrams (column 4, lines 49-67; column 5, lines 1-10) assigned a second priority (column 2, lines 11-16) to the second users.

14. Regarding claims 3, 8, 11, and 17, Shaffer teaches a first phase and a second phase (column 4, lines 49-67; column 5, lines 1-10), but does not teach the first users are provided during a third phase after the end of the second phase for sending data telegrams assigned any priority to the second users.

15. Lee teaches a third priority phase after a first and second phase (column 9, lines 31-33; isochronous, variable isochronous, and asynchronous phases) for the purpose of utilizing residual bandwidth (column 4, lines 33-37). It would have been obvious to one

of ordinary skill in the art at the time the invention was made to have a third phase after a first and second phase to utilize residual bandwidth.

16. Regarding claims 4 and 12, Shaffer teaches the first phase is cyclically repeated (column 3, lines 14-26).

17. Regarding claims 5, 9, 14, 16, and 18, Shaffer teaches the system for transmitting realtime data is provided in the switchable data network, with the realtime data telegrams being assigned the first priority (column 1, lines 50-59; column 2, lines 11-16).

18. Regarding claim 13, Shaffer teaches the first phase is cyclically repeated (column 3, lines 14-26).

19. Regarding claim 15, Shaffer teaches data telegrams with realtime data are assigned the first priority (column 1, lines 50-59; column 2, lines 11-16).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Weidner whose telephone number is (571) 270-1825. The examiner can normally be reached on Monday - Friday, 8:00 AM - 5:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy J Weidner/
Examiner, Art Unit 2619

/Edan Orgad/
Supervisory Patent Examiner, Art Unit 2619